

To: Honorable Rick Jones, Chairman
Senate Judiciary Committee

Testimony
Senate Bill 377

Senate Bill 377 is not about medical marihuana. It is not about public safety. It is not about protecting patients from false arrest. It is about privacy in health care; it is about doctor/patient confidentiality; and, it is about the American concept of innocent until proven guilty.

This bill would require the Michigan Department of Community Health (and it's successor DLEG) to automatically relay registered patients' private card information to the Michigan State Police. In turn the Michigan State Police are tasked to relay the card information to local police departments. These cards have significant personal information on them. They also identify the person who is the patient's caregiver.

This information will be available to law enforcement officers without cause. Without cause means that law enforcement has access to a patients card status and doctor/patient information without suspecting the patient of any wrongdoing. This bill would toss "innocent until proven guilty" into the civil liberties trashcan.

This information is currently available to law enforcement twenty-four hours a day, seven days a week, through the LEIN system (see attachment). The difference between what is in practice and what this bill attempts to make into law? LEIN can only be used when a person is suspected of committing a crime. This bill has no such requirement. This bill would profile medical marihuana patients in a way unheard of previously.

This bill is the first in a series of bills that will suggest that medical records do not deserve privacy.

This bill is the first on a slippery slope designed to chip away at our civil liberties and our sacred rights.

We see an attempt to attack doctor/ patient relationships and to thwart a citizens right to privacy from law enforcement intrusion when no law is suspected of being broken. What right will be sacrificed by our citizenry next?

CPU opposes SB 377 and urges you to do the same. CPU urges you to protect our rights, not erode them.

Thank you,

Cannabis Patients United



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING



COL. PETER C. MUNOZ
DIRECTOR

October 31, 2009

Dear LEIN Terminal Agency Coordinator:

The purpose of this letter is to provide information regarding recently enabled functionality in the Law Enforcement Information Network (LEIN).

Information contained in this letter relates to the 2009 LEIN Operations Manual, Section 5 (Person Files). This section will be revised and the manual will be reposted as a PDF to the MI-LFSS Special Interest Group on the FBI LEO website. Users without access to LEO can submit a request for access using the application form found at <http://www.leo.gov>.

Medical Marijuana License Check

The Michigan Department of Community Health has provided access to their Medical Marijuana License file for the purposes of verifying if a license is valid and verifying the name on the card matches the name associated with the license number. Inquiry can be performed on either the patient (who has a license number which starts with a P) or the caregiver (who has a license number which starts with a C) by Medical Marijuana license number only.

Due to wording in the legislation, inquiry on the name is highly restricted and can only be performed for a criminal justice purpose where the identity of the cardholder is in question. As such, interface agencies implementing this query are instructed NOT to make this transaction automated.

To query the status of the license, use the following LEIN format:

QMLS.MI3300210.20:P9999999-999999.55:TEST.56:TEST/LEIN.

LEIN will then return for a valid card:

00001
A LGWMMJ 1 19 10/30/09 0832 LEIN.
MI3300210
P9999999-999999
Valid
END OF MMJ MESSAGE

Or the following for an invalid card:

00005
A LGWMMJ 5 21 10/30/09 0856 LEIN.
MI3300210
P9999999-999999
Not Verified
END OF MMJ MESSAGE

This document was obtained lawfully through a public request made and responded to on January 26, 2010. It appears from this document that the Registry ID Card Program database has been made available for internet hacking through the state LEIN program. Once the searcher types in a number, and receives a verification, the searcher can then send a second search by number and receive the name on the card. Presumably a searcher with access to the lein system could automate a number search, which would in turn create a number inquiry, which would in turn produce a list of names of all persons on the registry ID card list. The MDCH is responsible for safeguarding this list, under the requirements of the law. Is this compliance?

The name of the license holder can only be queried after the status has been verified. A valid response will not be returned if the status has not been queried first.

To verify the name, use the following LEIN format:

QMLN.MI3300210.20:P999999-999999.55:TEST.56:TEST/LEIN.

LEIN will then return the following response:

00002
A LGWMMJ 2 20 10/30/09 0832 LEIN.
MI3300210
P999999-999999
John Q Public
END OF MMJ MESSAGE

Samples of each type of license are attached.

DCH Medical Marijuana Administrative Rule 333.121 states that all information maintained by the Michigan Medical Marijuana program "is confidential and not subject to disclosure in any form or manner".

Please email mspleinfss@michigan.gov with any questions about this new functionality.

Sincerely,

CHARLES HOFFMEYER
Operations Analyst
LEIN Field Services

Decide for Yourself - is the department has honored the confidentiality requirements of the law by making the list available to the LEIN on the honor system. "Interface agencies" are merely instructed not to AUTOMATE this inquiry. Does this instruction, which effectively instructs a searcher having access to the system as to how they could obtain a list of all registry ID Card program participants, invite illegal gathering of intelligent by any law enforcement agency, or anyone who can get access to the lein with a phone call on a favor?

Confidentiality Rules under the MMMA

333.26426 Administration and enforcement of rules by department.

(g) Possession of, or application for, a registry identification card *shall not constitute probable cause or reasonable suspicion*, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or *otherwise subject the person or property of the person to inspection by any local, county or state governmental agency*.

(h) The following confidentiality rules shall apply:

(1) Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and physicians, are confidential.

(2) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The department shall verify to law enforcement personnel whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) A person, including an employee or official of the department or another state agency or local unit of government, who discloses confidential information in violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than \$1, 000.00, or both. Notwithstanding this provision, department employees may notify law enforcement about falsified or fraudulent information submitted to the department.

This email address was given for inquiries: mspleinfss@michigan.gov. Perhaps you would like to ask them yourself?

Go to <http://sites.google.com/site/foiamichigan/> to find out how to use the FOIA laws.